IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 24 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

COMMISSIONER OF INCOME TAX

Versus

ASHWINKUMAR GORDHANDAS & BROS PVT.LTD

Appearance:
MR AKIL QURESHI for MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 29/08/2000

ORAL JUDGEMENT

(per D.M. Dharmadhikari, C.J.)

The following question of law has been referred to us for answer in this Reference :

"Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in law in coming to the conclusion that the assessee company was engaged in manufacturing and processing activities and was therefore an industrial company?"

The learned counsel for the department invites attention of this Court to the decision in the assessee's own case for the earlier years reported in (1995) 212 ITR 614. It is submitted that the question raised is squarely concluded in favour of the assessee. In the case of Ashwinkumar Gordhanbhai and Bros. (supra), of the same assessee, it was held that "the activities of the assessee in cutting the tobacco leaves into small leaves or pieces and after removing the dust and unwanted stems from the tobacco leaves, selling them to the bidi manufacturers, involved "processing" of goods." In view of the above finding, the assessee has to be held to be an industrial company involved in processing of goods.

For the reasons aforesaid, the question posed is answered in favour of the assessee and against the revenue. The Reference stands disposed of with no order as to costs.

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(D.M. Dharmadhikari, C.J.)

(hn) (A.R. Dave, J.)